

REMARKS

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

I. CLAIM STATUS AND AMENDMENTS

Claims 11, 12, and 14 were pending in this application when last examined and stand rejected.

Claims 11, 12 and 14 are amended in a non-narrowing manner to better conform to U.S. claim form and practice. Such revisions are non-substantive and not intended to narrow the scope of protection. Such revisions include: revising the claim language to provide proper antecedent basis throughout the claims; and revising the claims to remove reference numerals to drawings to better conform to US practice.

New dependent claim 15 has been added to further specify the thickness of said hemispherical kernel as supported by the throughout the disclosure, the claims as filed and the Figures, e.g., Figure 1bis

No new matter has been added.

Claims 11, 12, 14, and 16 are pending upon entry of this amendment.

Applicants are submitting the present Amendment without prejudice to the subsequent prosecution of claims to some or all of the subject matter which might be disclaimed by virtue of this response (although none is believed to be), and explicitly

reserve the right to pursue some or all of such subject matter, in Divisional or Continuation Applications.

Applicants thank the Examiner for the careful examination of this case and respectfully request reexamination and reconsideration of the case, as amended. Below Applicants address the rejections in the Office Action and explain why the rejections are not applicable to the pending claims as amended.

II. OBVIOUSNESS REJECTION

Claims 11, 12, and 14 were rejected under 35 U.S.C. § 103(a) as obvious over NOILES (US 4,642,123) in view of SUBBA RAO et al. (US Pub. No. 2001/0051831) for the reasons on pages 2-3 of the Office Action.

This rejection is respectfully traversed for the reasons set forth in the response filed February 8, 2008 and for the following reasons.

It is well established that a rationale to support a conclusion that a claim would have been obvious is that all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions. Obviousness also requires a reasonable expectation of success, which means that the combination of cited references would have yielded nothing more than predictable results to one of ordinary skill in the art. See, *KSR International Co. v. Teleflex Inc.*,

550 U.S. ___, ___, 82 U.S.P.Q.2d 1385, 1395 (2007); and M.P.E.P., Eighth Ed., Rev. 6 (September 2007) at § 2143.02.

Applicants again respectfully submit that the rejection fails because the combination of NOILES and SUBBA RAO fails to disclose or suggest the acetabular implant of claim 11, wherein the central region of said hemispherical kernel is thinner than a peripheral region of said hemispherical kernel, the thickness of said hemispherical kernel increasing progressively from said central region toward said peripheral region.

The Office acknowledges that NOILES does not disclose the hemispherical kernel being thinner at its central region than at its peripheral regions.

The Office offers SUBBA RAO as allegedly teaching a change in thickness over the member 22 because the cavity 28 has side walls that are spaced at variable distances from the spherical perimeter 24 of member 22. The Office points to Figure 1 and paragraphs 0032-0047 of SUBBA RAO.

Applicants respectfully disagree and submit that SUBBA RAO fails to disclose or suggest that for which it is offered.

Indeed, nowhere in the SUBBA RAO, or in NOILES for that matter, is it disclosed that "the thickness of said hemispherical kernel increasing progressively from said central region toward said peripheral region" of claim 11. Despite the Office's allegation, SUBBA RAO still does not disclose or suggest

hemispherical kernel being thinner at its central region than at its peripheral regions of claim 11.

Applicants have further added new claim 16 to further emphasize this distinction between the claimed acetabular implant and that of NOILES and SUBBA RAO. New dependent claim 16 further specifies that the "thickness of said hemispherical kernel increases progressively from said central region up to an opening of said internal spherical cavity." The cited prior art references fail to disclose such feature.

Indeed, in SUBBA RAO, the thickness of the ball member 22 increases from the central region (top of the ball member 22) up to the middle of the peripheral region, and keeps decreasing up to the opening of the cavity. This stands in contrast to claim 11, in which the thickness of said hemispherical kernel increases progressively from said central region toward said peripheral region. It also stands in contrast to new claim 16, wherein the thickness of said hemispherical kernel increases progressively from said central region up to an opening of said internal spherical cavity.

Based on such, it is believed that the combination of NOILES and SUBBA RAO fails to render obvious the above-noted features of independent claim 11 and dependent claim 16. Again, the distinguished feature, i.e., the thickness, concerns the kernel intended to receive a femoral head. By contrast, in SUBBA

RAO the feature of the thickness supposedly concerns the femoral ball (22), i.e., the femoral head.

As such, Applicants respectfully submit that it would not be obvious to one of ordinary skill in the art at the time of the invention to apply some teachings given for a femoral head as in SUBBA RAO to a kernel intended to receive a femoral head as in the implant in NOILES.

For these reasons, it is believed that independent claim 11, and all claims dependent thereon, and especially claim 16, are novel and patentable over the combination of SUBBA RAO and NOILES.

Thus, the above-noted 103(a) obviousness rejection over SUBBA RAO and NOILES is untenable and should be withdrawn.

III. CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance and early notice to that effect is hereby requested.

If the Examiner has any comments or proposals for expediting prosecution, please contact the undersigned attorney at the telephone number below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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